

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

SHIRLEY ADGER

§

§

§

§

§

CRIMINAL NO. H-08-640-6

(Civil Action No. H-12-3445)

ORDER


By Memorandum and Order [Doc. # 597] entered March 7, 2013, the Court denied Defendant Shirley Adger's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 [Doc. # 593] and denied a certificate of appealability. On May 10, 2013, Adger filed a Notice of Appeal. The case is now before this Court on Adger's motion [Doc. # 600] to proceed on appeal *in forma pauperis*.

The standards governing *in forma pauperis* motions for appeal are set forth in 28 U.S.C. § 1915(a). The motion must state "the nature of the action, defense or appeal and affiant's belief that he is entitled to redress." 28 U.S.C. § 1915(a). The district court may deny leave to proceed *in forma pauperis* if an appeal is not taken in good faith. *Cay v. Estelle*, 789 F.2d 318, 326 (5th Cir. 1986). An appeal is taken in good faith if it presents an arguable issue on the merits and therefore is not frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962); *Howard v. King*, 707

F.2d 215, 219 (5th Cir. 1983). A movant must demonstrate the existence of a non-frivolous issue for appeal. *See Payne v. Lynaugh*, 843 F.2d 177, 178 (5th Cir. 1988). Adger has not identified a non-frivolous issue for appeal, and this Court is aware of none. Accordingly, it is hereby

ORDERED that the motion to appeal in forma pauperis [Doc. # 600] is **DENIED**.

SIGNED at Houston, Texas, this 13th day of **May, 2013**.



Nancy F. Atlas
United States District Judge